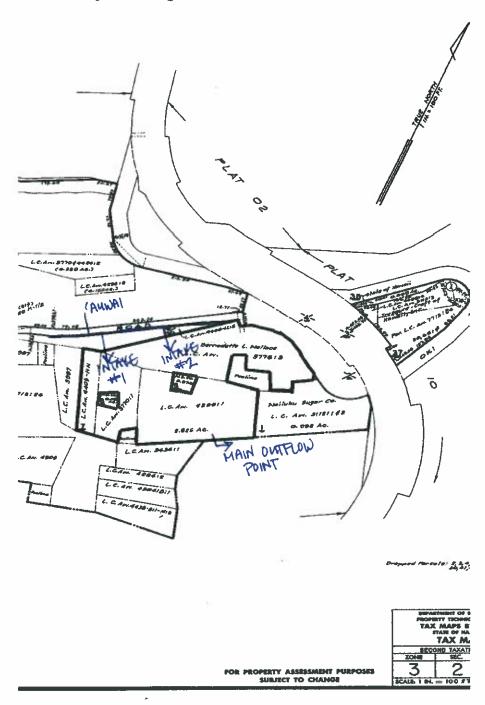
Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 6 of 33

Exhibit B:

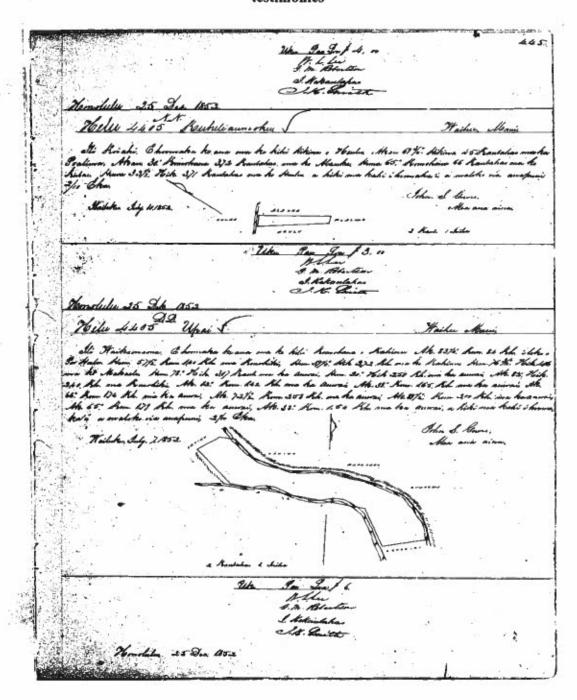
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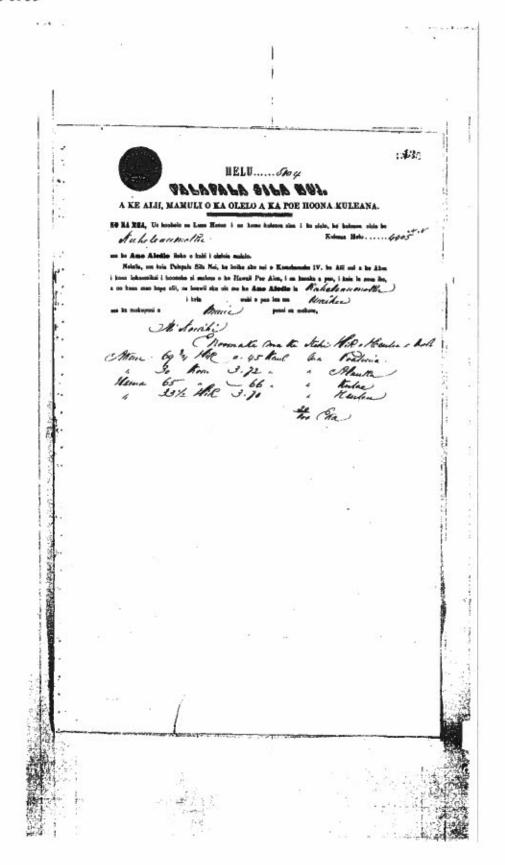
Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 9 of 33

Exhibit E: Māhele records

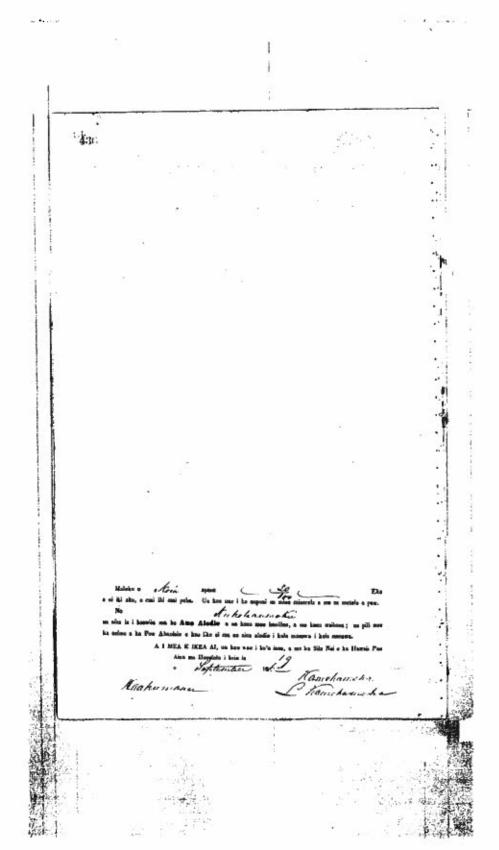
Land Commission Award No. 4405-NN, Royal Patent 5104, and supporting testimonies



Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 10 of 33



Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 11 of 33



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Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 14 of 33

Testimony in support of Land Commission Award No. 3770

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Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 16 of 33

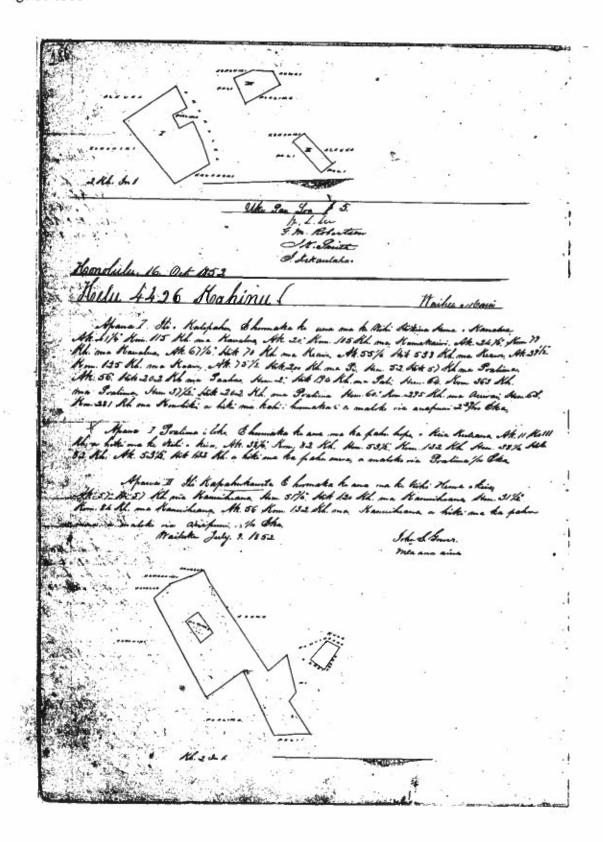
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Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 17 of 33

Land Commission Award No. 4295:1, Royal Patent 5401, and supporting testimonies

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Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 18 of 33



Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 19 of 33



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Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 20 of 33

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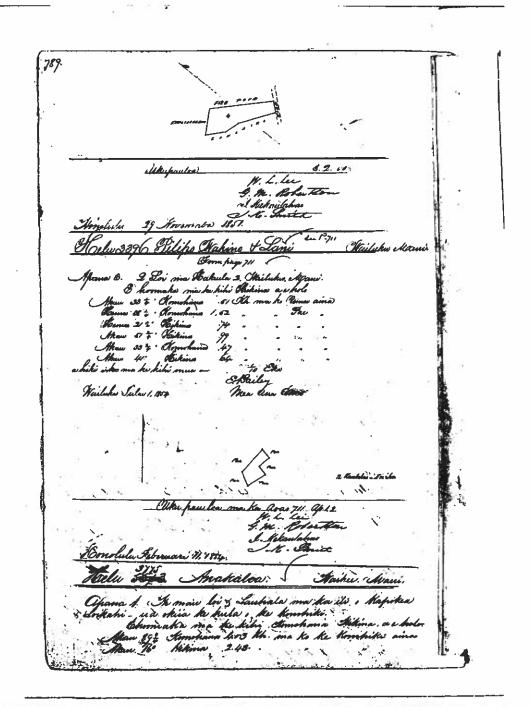
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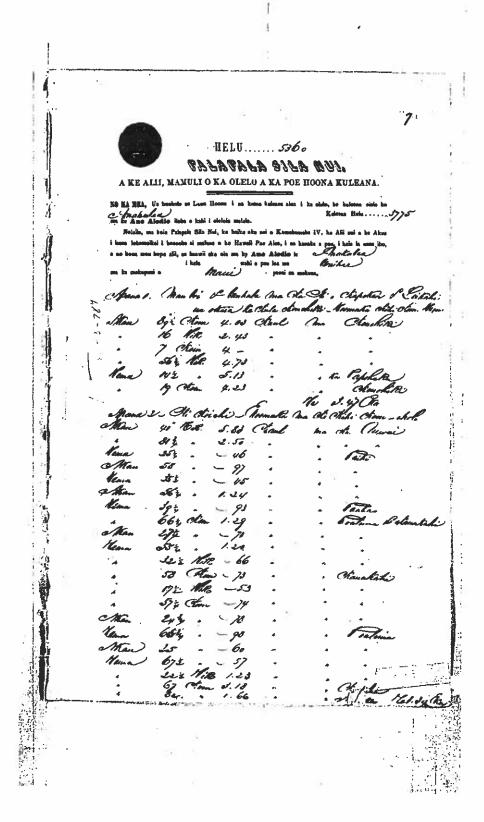
Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 25 of 33

Land Commission Award No. 3775:3, Royal Patent 5360, and supporting testimonies



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Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 27 of 33



Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 28 of 33

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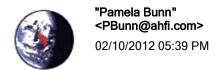
Michael Doherty TMK Nos. 3-2-005:006, 007, 008 SWUPA-E Addendum and Exhibits Page 30 of 33

> 125 Mahalea ... Manache 30 loi ai In Anakalea mai kou I wahi kula no Anakalea mai Som ta Amakalea 3782 Ili aina Perhander 3 loc in. Pila, I loi Kapoho 5 puhala na mkon e, hropomopone akie kua palapala Kulima ama. Na Ofumi Ohule 3184 un ka ili aina 12 kipapai, o Mans. Ashala ka ili ama 6 kihapat Samals ka aina 5 kihapai Wala hash mala uale madi, ma ia aina he kula Marchale , Waha ka hoike , Printer 378AB Purhon Eia kuliana o Punpine o Ka. mais he ahupuaa . Apue ka ili ama malsho 11 on kuhapai, 3 kihapai i maki ia i mahakia, he man kula nakauhale e he kula hanai holoholona, he ili aina o Manskoh maanghi / Kihapai nala 6 Kihah wala hade. O Hawaafrahulu Ka hiske O Mai kekahi hoike Na Prufum

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- To Robert.K.Chong@hawaii.gov
- cc Dean.D.Uyeno@hawaii.gov, "Isaac Moriwake" <imoriwake@earthjustice.org>, Roy.Hardy@hawaii.gov, William.Tam@hawaii.gov, jocelynd@oha.org,

bcc

Subject Re: Waihee Appurtenants Rights Review

Robert,

Thanks for updating the spreadsheet. As I mentioned last week, we are following up trying to provide information that is missing or needs clarification. I would have hoped to have made more progress by now but got sidetracked with other urgent matters (and before I knew it another week had gone by). So, although there is still information outstanding, I thought I would start updating you on what I have and the status of some of the outstanding inquiries. These generally go in the order of your spreadsheet.

Re **Brito** (2215/2216N), this one is related to **Haleakala** (2236) and **Mendoza** (2256/2257N). All three parcels (TMK 3-3-2:3, 25 and 29) were originally part of one larger parcel (and the LCA Nos. were removed from the Tax Map when they were subdivided). We are trying to find the subdivision documents, which will hopefully include a map identifying the LCAs. In the meantime, from what I can tentatively determine, the reference to LCA No. 3488 in the Haleakala application appears to be incorrect and the unsubdivided parcel included portions of LCA 3294-B/RP 6102, LCA 3237, LCA 2553:1/RP 6529, and LCA 3387/RP 6065. Lets set this one aside until we can confirm with a map or other documentation.

Re **Doherty** (2225/2226N), it appears from the TMK map (enlargement attached) that parcel TMK 3-2-5:7 included all four of the LCAs (LCA 4295:1/RP 5401, LCA 4405-NN/RP 5104, LCA 3775:3, and LCA 3770:1) and the other two parcels (TMKs 3-2-5:6&8) were poalima. (LCA 3995:3, as you noted on the spreadsheet, does not appear on the TMK map, and it appears that it was a typographical error in the SWUPA.) LCA 3775 that was attached to the SWUPAs did not include an apana 3, as you observed. This is another one of those situations where there were multiple LCAs with the same claim number. The LCA 3775 attached to the SWUPAs was for Apana 1; attached below is LCA 3775 to Anakalea which describes Apana 3. You can see from the drawing of the parcel that it is the same parcel from which the "Bernadette Wallace" parcel (on the TMK map) derived, but it appears that a portion of it may have been used in the construction of the highway. I could not find any RP for that LCA (RP 5360, attached to the SWUPA, appears to be just for Apana 1 and 2 of LCA 3775), but the testimony attached to the SWUPA describes Apana 3 as being "a Moo of Kalo[.]"

Re **Goo**, who has 5 SWUPAs (2231, 2232N, 2233, 2234N, and 2235N), you have noted missing information re four of them. **SWUPA 2232N** is for new use on TMK Nos. 3-2-11:78&79. Like you, I am unable to find those parcels on the TMK map, although the Maui County Real Property Tax website indicates that they exist. Lets set this one aside with the Brito/Haleakala/Mendoza SWUPAs while we try to locate appropriate maps. Re **SWUPAs 2233/2234N**, you have indicated that there is no reference to water use. Although the LCA

(7713:24) (which was for the ahupua`a of Waihe`e as well as other large areas) may not refer to water use on the specific parcel, the land is on the southern bank of Waihe'e River adjacent to an auwai, and the applicant has indicated in her SWUPA that "the entire property is made up of ancient lo`i kalo terraces[.]" That should be sufficient to establish water use on the property. Finally, regarding SWUPA 2365N, your spreadsheet indicates that thee is no reference to water uses for Apana 3 (of LCA 3507). After having reviewed the documents, it appears to me that the references to "3507:2" and "3507:3" on the TMK map (enlargement attached), for parcels 3-2-4:8 and 10, respectively, are inaccurate. LCA 3507 (attached as a tiff file so you can enlarge it) has only 2 apana. Apana 2 has 2 sections, or "mahele," separated by a poalima; the section on the left of the poalima, looking at the LCA drawing, is 0.85 acres and mahale 2, on the right of the poalima, is 0.20 acres, which precisely corresponds to the acreage of TMK parcels 8 and 10, respectively. Comparing the drawings and acreage to the TMK parcels, it appears clear that TMK 3-2-4: 10, which is identified on the TMK map as LCA 3507:3 is not really apana 3, but is actually mahele II of apana 2. The Native Testimony and Foreign Testimony (attached) indicate that Apana 2 was "Pauku Kalo" or "a section of lois," and that "there is one poalima in each piece."

I'll get you more on Monday. Have a good weekend!

Pam



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>>> <Robert.K.Chong@hawaii.gov> 1/31/2012 1:57 PM >>>

Hi Pam.

Thank you for your comments.

Yes, we are looking for appurtenant rights for new uses as well. I've updated my spreadsheet and included SWUPAs for new uses as well. SWUPAs for new uses have a "N" after the SWUPA number and are italicized. Robert

Robert K. Chong, Planner

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"Pamela Bunn" <PBunn@ahfi.com>

To "Isaac Moriwake" <imoriwake@earthjustice.org>, Robert.K.Chong@hawaii.gov, jocelynd@oha.org, ksproat@earthjustice.org, pbunn@pjpn.com

01/30/2012 06:00 PM

^{CC} Dean.D.Uyeno@hawaii.gov, Roy.Hardy@hawaii.gov, William.Tam@hawaii.gov Subj Re: Waihee Appurtenants Rights Review ect

Robert, et al.,

Thanks for getting us these. We are working on filling in any gaps, and will get you what we are able to find. In the meantime, though, I wanted to confirm that the appurtenant rights determination will include all Na Wai Eha users claiming appurtenant rights, not just those who have filed SWUPA-Es. We had always assumed that was the case, because it would not make sense to go through this twice, and existing v. new is not a distinction that has any meaning with respect to appurtenant rights. I also believe this has been discussed.

The reason I raise the issue is that on your Waihe'e spreadsheet, although there is one specific reference to a SWUPA-N, many of the kuleana applicants who have only new uses are not included on your list. For example, you have listed SWUPAs 2231 and 2233 for Diannah Goo, who has existing uses on the parcels covered by those applications. But she also has a SWUPA-N for TMK Nos. 3-2-4: 8 and 10, on which she has no existing use, and that one does

not appear on your spreadsheet. Likewise, Lawrence Koki, who filed a SWUPA-N for TMK 3-2-3: 30, is not on the spreadsheet. For Piko A`u, the only parcel that shows up on the spreadsheet is TMK No. 3-2-6: 8, which is the subject of the SWUPA-E, but there is no reference to TMK 3-2-6: 19, which is included in Piko A`u's SWUPA-N. There may be other examples as well.

Please confirm that the appurtenant rights determinations are not limited to "existing" users. Thanks.

Pam



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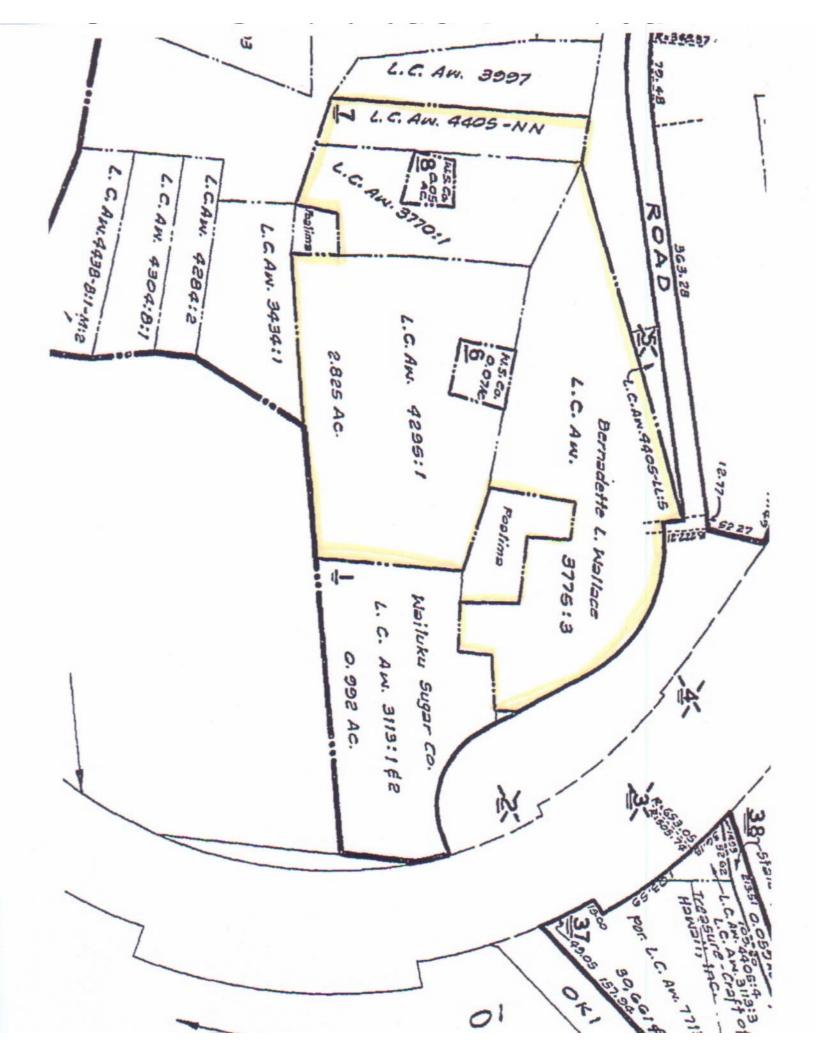
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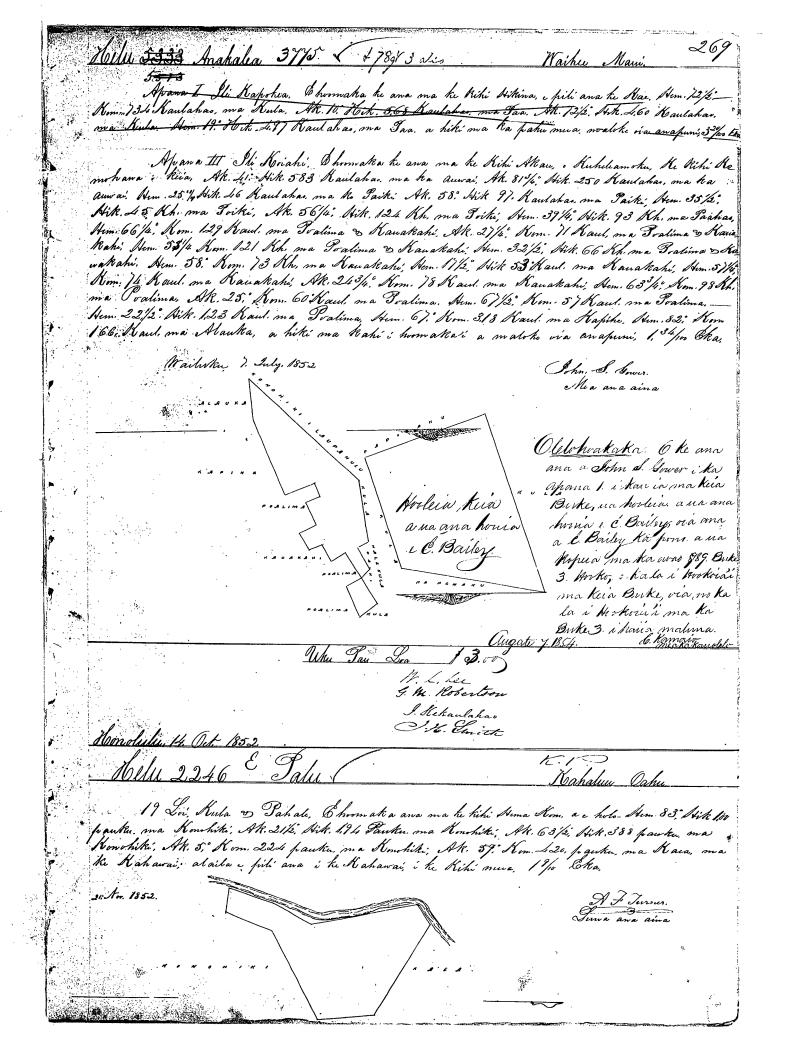
>>> <Robert.K.Chong@hawaii.gov> 1/26/2012 1:42 PM >>>

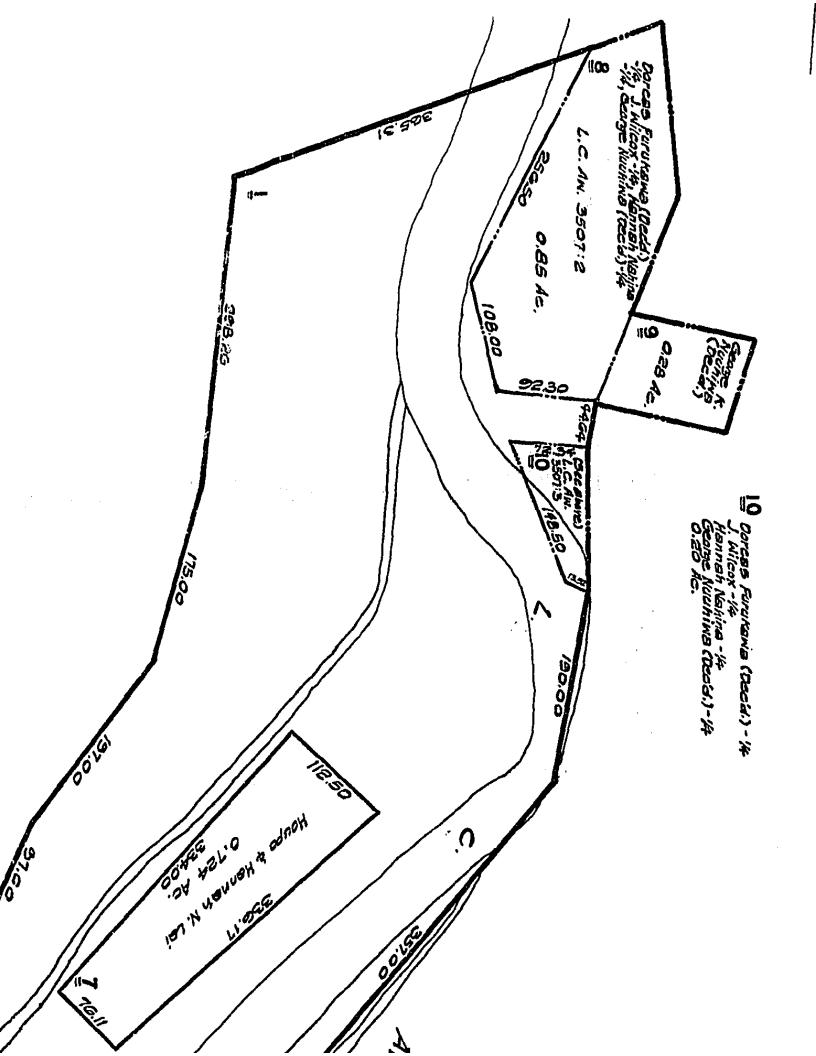
Pam, Kapua and Jocelyn, Here is the Waihee appurtenants rights review. Robert

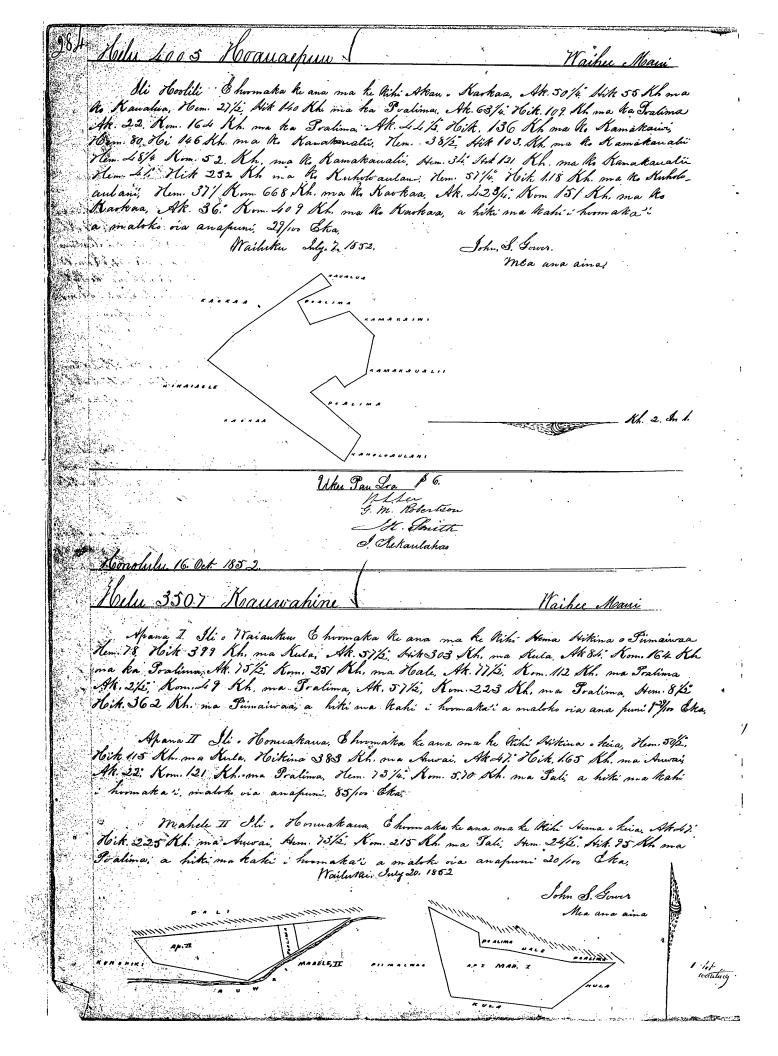
Robert K. Chong, Planner

Commission on Water Resource Management 1151 Punchbowl Street, Room 227 Honolulu, HI 96813 Phone: (808) 587-0266









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